Assessment

Forest Plan Revision

Draft Areas of Tribal Importance Report

Prepared by:
Halcyon LaPoint
Heritage Program Lead

Mike Bergstrom
Zone Archaeologist

for:
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Introduction

The Custer Gallatin National Forest holds in public trust a great diversity of landscapes and sites, including many culturally important sites held sacred by Indian Tribes. The Forest Service's responsibility to protect tribal cultural resources and sacred sites is codified in executive orders, legislation, regulation and other statutory authorities. Some authorities relate to cultural resources as sites of historical importance and other authorities relate to sacred sites as places held sacred because of religious or spiritual importance. A number of treaties between the tribes and U.S. Government pertain to the Custer Gallatin.

Applicable laws, policy, direction and regulation provide the management direction for tribal relations and issues, and are set forth in the March 2016 update to Forest Service Manual 1500, Chapter 1560 – State, Tribal, County and Local Agencies, Public and Private Organizations. The following list, taken from the Manual, are the pertinent laws and regulations, many of which came into being after the 1986 and 1987 Gallatin and Custer forest plans:

- Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701-1784 (1976)
- American Indian Religious Freedom Act (AIRFA) (42 U.S.C. 1996)
- Archaeological Resources Protection Act of 1979 (ARPA) (16 U.S.C. 470cc et seq.) as amended
- Executive Order 13007, Indian Sacred Sites of 1996
- USDA Policy and Procedures Review and Recommendations: Indian Sacred Sites (2012 accepted by Secretary of Agriculture)
- National Historic Preservation Act of 1966 (NHPA) (54 U.S.C. 300101 et seq.) as amended in 1992
- Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), 25 U.S.C. 3001 et seq.), amended in 1992
- Religious Land Use and Institutionalized Persons Act of 2000 (42 U.S.C. 42 U.S. Code § 2000cc(a))
- Executive Order 13175—Consultation and Coordination with Indian Tribes, November 6, 2000
- Tribal Forest Protection Act (TFPA), 25 U.S.C. § 3115a (2004)
- Title VIII, Subtitle B of the Food, Conservation, and Energy Act of 2008 (Farm Bill). Codified as the Cultural and Heritage Cooperation Authority (25 U.S.C. 32A)
- Title 36, Code of Federal Regulations, Part 219 (2012 Planning Rule)
- Issuance by the National Park Service of Technical Bulletin 38 "Guidelines for Evaluating and Documenting Traditional Cultural Properties, 1990

Process and Methods

This assessment provides information about areas of tribal importance, existing tribal rights, and the conditions and trends of these areas on the Custer Gallatin National Forest as required by the 2012 planning rule (36CFR 219.6(b)) and the Forest Service handbook (FSH) 1909.12, chapter 10 section 13.7.

- Indian tribes and Alaska native corporations associated with the plan area;
- Existing tribal rights, including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites;

- Areas of known tribal importance that are in the plan area or affected by management of the plan area; and
- Conditions and trends of resources that affect areas of tribal importance and tribal rights.

Scale

The geographic scale is primarily related to the resources on the Custer Gallatin. For context, Figure 1 displays the Indian tribes associated with the national forest and their current reservations. Of the 15 tribes with interests on the Custer Gallatin, only the Crow share common boundaries with the national forest.

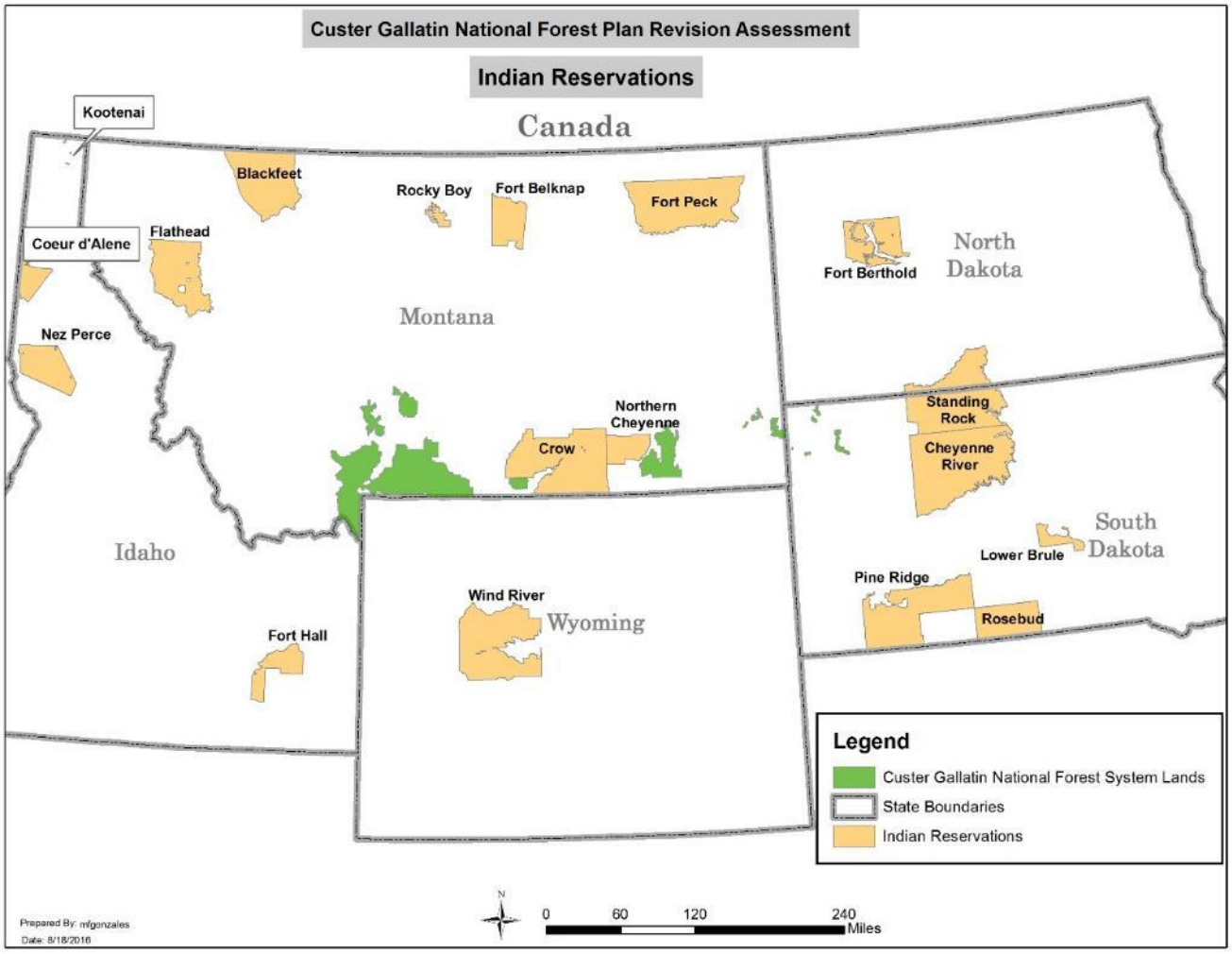

Figure 1. Present reservation boundaries

Existing Information Sources

Sources of information used to assemble this assessment include treaties for the tribes surrounding the Custer Gallatin National Forest; the Gallatin Forest Plan (1987), the Custer Forest Plan (1986); cultural resource records; tribal Web sites; past and recent tribal consultation meetings; oil and gas leasing environmental impact statements; and a number of ethnographic studies and cultural histories.

The Custer National Forest has worked with their tribal neighbors on a number of ethnographic studies in the last 20 or so years. The first study was the ethnographic/ethnohistoric overview of the Mckenzie, Medora, Sioux, Ashland and Beartooth Districts (Deaver and Kooistra-Manning 1995) designed to give Forest Service personnel some of the background information needed to make informed decisions regarding the effects of land management decisions on traditional Indian communities with ties to the lands administered by the national forest. Working with 28 cultural representatives from 10 reservations, the Eastern Shoshone (Wind River Reservation), Northern Arapahoe (Wind River Reservation); Shoshone-Bannock (Fort Hall Reservation); Crow; Northern Cheyenne; Mandan, Arikara and Hidatsa (Fort Bethold); Assiniboine (Fort Peck Reservation) and Sioux (Fort Peck, Standing Rock, Pine Ridge and Cheyenne River Reservations), the study identified traditional and cultural ties by Forest Service ranger district, culturally sensitive sites and site types of concern to the traditional Indian communities, and Forest Service land management decisions that have potential effects on Native American concerns. The final 1995 study was reviewed and validated by the participating tribes and, while this study only addressed the then Custer National Forest ranger districts, information from this work can be applied to the western districts of the Custer Gallatin National Forest and forms the basis for much of this assessment.

Other ethnographic and ethnogeographic studies consulted for this assessment include the specific land-based studies for the Pryor Mountain Unit (Nabokov and Loendorf 1994); South Dakota units of the Sioux District (Sundstrom 1997, 2003; Le Beau 2006); Tongue River/Powder River Plateau (Boggs et al 2010); Chalk Buttes (Chalk Buttes Elders et al 1996); Crazy Mountains (Allen 2002); and Yellowstone National Park (Nabokov and Loendorf 2002).

Current Forest Plan Direction

The 1987 Gallatin forest plan's objective for cultural resources is: "Cultural Resources on the Gallatin National Forest will be managed to maintain their scientific, social, and historical value in compliance with all applicable Federal and State Laws". Forestwide standards for cultural resources require that "significant cultural resource issues and concerns will be coordinated with the public, Native American groups, the Montana Historic Preservation Officer, and scientific community". Further, the "Provisions of the Antiquities Act, National Historic Preservation Act, American Indian Religious Freedom Act, the procedures outlined in 36 CFR 800 and Executive Order 11593 will be complied with."

The 1986 Custer forest plan has cultural resources management standards that require "the Forest will make an effort to coordinate cultural issues and concerns with the appropriate Native American groups such as the Crow, Cheyenne, Mandan, Hidatsa and Sioux" and that "the Forest will take into consideration in its multiple-use management and process sites which are former or current ceremonial or religious sites or sites or sacred significance to Native Americans". Further, "the Forest will consult with Native American traditional leaders on projects having the potential to affect Native American cultural rights and practices and the Forest will meet the requirements of the American Indian Religious Freedom Act". Special procedures are included in the event that human remains were discovered that, "in cases where affiliation with living Native American tribal group can be reliably ascribed, the appropriate entity will be contacted regarding proper reinternment" and "Appropriate state or tribal policies regarding reinternment of human skeletal remains encountered during earth moving activities where appropriate".

In addition to these standards, a management area was designed to protect the Blue Buttes from conflicts which are incompatible with the religious use of the area by the Low Hat Clan of the Hidatsa. While this management area is no longer within the current boundaries of the Custer Gallatin National

Forest, the special management consideration was included in the 2001 National Grasslands Forest Plan with the more current terminology of "Identified American Indian Traditional Use Areas" reflecting the 1992 National Historic Preservation Act amendments.

Religious concerns are to be taken into account in the management of the Tongue River Breaks on the Ashland District. Direction to develop a consultation process to assess Northern Cheyenne views on activities which might affect ancestral cultural sites was included as well as stating that the area will be managed to assure compliance with the American Indian Religious Freedom Act.

As can be discerned from both Forest Plans, consideration was taken in regard to complying with Federal and State laws, and to include "tribal groups" in consultation if a site appears to have religious or historical significance. The reburial policy appears to be a precursor to the Native American Graves Protection and Repatriation Act and the designation of a special management area for the "significant religious use" of the Low Hat Clan recognizes the importance and respect of this activity before the terms "traditional cultural property" was defined.

Existing Condition

Indian Tribes Associated with the Custer Gallatin National Forest

The Custer Gallatin National Forest administers a vast landscape that covers a range of ecological conditions, from the pine savanna to mountains and alpine plateaus. These landscapes were and are a cross roads and homelands of a number of Indian tribes, and this is further reflected in the great diversity of organizational structures of tribal governments, roles of written and customary law, treaties, and cultural traditions and practices. Some Indian tribes have reserved treaty-protected rights while others have rights established by executive order or statue. The U.S. government has trust responsibilities for all of the Indian tribes.

Because the governments and cultures of indigenous peoples are distinctively unique—a fact lost in the many treaty negotiations—the Custer Gallatin National Forest works with each tribe individually and consults with 15 federally recognized tribes located in North Dakota, South Dakota, Montana, Wyoming, Idaho, and Washington who have communicated interest in the natural and cultural resources and management of the Custer Gallatin as part of their aboriginal or traditional use areas. The tribes include:

- Arapahoe Tribe
- Cheyenne River Sioux Tribe
- Confederated Salish Kootenai Tribes
- Crow
- Eastern Shoshone Tribe
- Ft. Peck Sioux and Assiniboine Tribes
- Lower Brule Sioux Tribe
- Mandan, Hidatsa and Arikara (Sahnish) Nation
- Nez Perce Band of the Umatilla Confederated Tribes
- Nez Perce Tribe
- Northern Cheyenne Tribe
- Pine Ridge Sioux Tribe
- Rosebud Sioux Tribe
- Shoshone Bannock Tribe
- Standing Rock Sioux

Historical data on tribal distribution indicates that a number of tribal peoples have documented cultural or historical affiliation and associations with the lands now under the stewardship of the Custer Gallatin

National Forest. Native American tribes have lived on, or traversed through, lands within the Custer Gallatin for thousands of years where they hunted, fished, gathered plant foods, buried their dead, and conducted religious ceremonies. Their cultural practices were still in use when they were removed from their homelands onto reservations, and many of these ties to their aboriginal territories and practices remain in place today through stories, songs, language, place names and spiritual world view. These places provide guidance and spiritual assistance to individuals and tribes in general, and when these sites are destroyed so is a portion of tribal heritage, a loss experienced by the whole tribe.

An ethnographic overview conducted with tribal elders in 1995 for the Custer National Forest identified an initial list of tribal associations by ranger districts (Deaver and Kooistra-Manning 1995) now administered by the Custer Gallatin National Forest. Consultations conducted on the Gallatin National Forest revealed aboriginal ties and association with the Confederate Salish Kootenai, Shoshone-Bannock, Blackfeet and the Nez Perce. Since the Custer Gallatin National Forest is essentially a crossroads for all these Indian tribes, any one of them could have associations across the entire national forest. Table 1 summarizes these associations.

Table 1. Tribal association by ranger district

Beartooth	Ashland	Sioux	Hebgen, Bozeman, Yellowstone, Gardiner
Crow Shoshone Shoshone-Bannock Arapahoe Northern Cheyenne	Crow Hidatsa Arapaho Northern Cheyenne Teton Sioux*	Mandan, Hidatsa Arikara Northern Cheyenne Teton Sioux Crow Assiniboine	Confederated Salish Kootenai Nez Perce Shoshone-Bannock Crow

* Includes Lakota Speaking Tribes Standing Rock, Cheyenne River, Rosebud, Pine Ridge

Existing Tribal Rights (including those involving hunting, fishing, gathering, and protecting cultural and spiritual sites)

Modern tribal groups associated with the Custer Gallatin National Forest today live primarily on reservations established between the late 1860s and 1880s through a number of treaties, land cessions, and executive orders.

The Forest Service recognizes specific trust relationship with the tribes and administers the national forest with these responsibilities in mind. These trust responsibilities are primarily defined in Forest Service Manual part 1563.03 - Policy.

Indian treaties are agreements drawn up through negotiation between sovereign nations and the United States and are similar to those between the United States and any foreign government. The Indian tribes came to the “negotiating table” as land owners. The treaties were made to guarantee special reserved rights and compensation, including rights to hunt and fish, in exchange for the cession of Indian land (Cohen 1982). After the 1871 Federal statue eliminated treaty making, the United States continued to make agreements with the Indian tribes through statues and executive orders. These in essence carry the same weight as treaties (Cohen 1982).

All but one of the tribes the Custer Gallatin National Forest consults with are “treaty tribes.” The Northern Cheyenne were signatories on the 1868 Fort Laramie treaty occupying land established as unceded Indian territory centered on the Tongue /Powder River country. This homeland was not defined

in the treaty for the Northern Cheyenne and instead lumped the Northern Cheyenne with the Southern Cheyenne to the south. When ordered to return to the reservations in 1876, the Northern Cheyenne resisted along with the Sioux and other tribes and fought with their allies in the Great Sioux War. At the conclusion of the war the Northern Cheyenne were forced to accept a home reservation either on the Southern Cheyenne and Arapahoe reservation in Oklahoma or on the Big Sioux reservation. In 1878, approximately 300 Cheyenne, under the leadership of Dull Knife, Little Wolf, Wild Hog and Old Crow fled Oklahoma determined to live in their former homeland, the Tongue River/Power River area. Dull Knife surrendered in Fort Robinson in Nebraska hoping to live with the Sioux in Pine Ridge while Little Wolf finally made it to Fort Keogh, surrendering in 1879. In all less than 100 survived these tragic journeys and united with Two Moon who had surrendered there in 1877 (Bryan 1996).

As various Cheyenne began to settle in the Lame Deer area they were encouraged to take out homesteads along the Tongue River, Muddy Creek, Otter Creek and Hanging Woman Creek and slowly began to carve out a de facto reservation (Bryan 1996). In 1884, by Executive Order, the Northern Cheyenne Reserve was established.

Northern Cheyenne Reserve.

[In Tongue River Agency; area, 765 square miles; established by Executive orders only.]

EXECUTIVE MANSION, *November 26, 1884.*

It is hereby ordered that the following-described country, lying within the boundaries of the Territory of Montana, viz: Beginning at the point on the one hundred and seventh meridian of west longitude (said meridian being the eastern boundary of the Crow Indian Reservation) where the southern 40-mile limits of the grant to the Northern Pacific Railroad Company intersects said one hundred and seventh meridian; thence south along said meridian to a point 30 miles south of the point where the Montana base line, when extended, will intersect said meridian; thence due east to a point 12 miles east of the Rosebud River; thence in a northerly and northeasterly direction, along a line parallel with said Rosebud River and 12 miles distant therefrom, to a point on the southern 40-mile limits of the grant to the Northern Pacific Railroad Company, 12 miles distant from said Rosebud River; thence westerly along the said southern limits and across the said Rosebud River to the place of beginning, be, and the same is hereby, withheld from sale and settlement, and set apart as a reservation for the use and occupation of the Northern Cheyenne Indians, now residing in the southern portion of Montana Territory, and such other Indians as the Secretary of the Interior may see fit to locate thereon: Provided, however, That any tract or tracts of land included within the foregoing described boundaries which have been located, resided upon, and improved by bona fide settlers, prior to the 1st day of October, 1884, to the amount to which such settlers might be entitled under the laws regulating the disposition of the public lands of the United States, or to which valid rights have attached under said laws, are hereby excluded from the reservation hereby made.

Table 2 summarizes the reserved rights for the treaty tribes. Figure 2 displays treaty lands and cessions relative to the Custer Gallatin National Forest administrative boundaries.

Table 2. Treaty clauses referencing reserved treaty rights

Tribe*	Treaty	Date	Reserved Rights
Sioux (Dahcotas), Cheyennes, Arapahoes, Crows, Assinaboines, Gros-Ventre Mandans, Arrickaras	"Ft Laramie Treaty with Sioux, Etc.	*1851*	*It is, however, understood that, in making this recognition and acknowledgement, the aforesaid Indian nations do not hereby abandon or prejudice any rights or claims they may have to other lands; and further, that they do not surrender the privilege of hunting, fishing, or passing over any of the tracts of country heretofore described.* *The foregoing nations, however, do not abandon any rights or claims they may have to other lands.*
Sioux—Brulé, Oglala, Miniconjou, Yanktonai, Hunkpapa, Blackfeet, Cuthead, Two Kettle, Sans Arcs, and Santee—and Arapaho"	"Treaty with the Sioux—Brulé, Oglala, Miniconjou, Yanktonai, Hunkpapa, Blackfeet, Cuthead, Two Kettle, Sans Arcs, and Santee—and Arapaho" (Ft Laramie Treaty)	1868	*the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy permanently the territory outside their reservation as herein defined, but yet reserve the right to hunt on any lands north of North Platte, and on the Republican Fork of the Smoky Hill River, so long as the buffalo may range thereon in such numbers as to justify the chase.* *It is hereby expressly understood and agreed by and between the respective parties to this treaty that the execution of this treaty and its ratification by the United States Senate shall have the effect, and shall be construed as abrogating and annulling all treaties and agreements heretofore entered into between the respective parties hereto, so far as such treaties and agreements obligate the United States to furnish and provide money, clothing, or other articles of property to such Indians and bands of Indians as become parties to this treaty, but no further.*
Crow	Treaty with the Crows	1868	*they shall have the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and as long as peace subsists among the whites and Indians on the borders of the hunting districts.*
Confederated Tribes of the Flathead, Kootenay, and Upper Pend d' Oreilles	Treaty with the Flatheads, etc. "Hellgate Treaty"	1855	*The exclusive right of taking fish in all the streams running through or bordering said reservation is further secured to said Indians; as also the right of taking fish at all usual and accustomed places, in common with citizens of the Territory, and of erecting temporary buildings for curing; together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land.*

Tribe*	Treaty	Date	Reserved Rights
Blackfoot Nation, consisting of the Piegan, Blood, Blackfoot, and Gros Ventres tribes of Indians. West of the Rocky Mountains, the Flathead Nation, consisting of the Flathead, Upper Pend d'Oreille, and Kootenay tribes of Indians, and the Nez Percé tribe	Treaty with the Blackfeet	1855	*exclusive right of taking fish in all the streams where running through or bordering said reservation is further secured to said Indians: as also the right of taking fish at all usual and accustomed places in common with citizens of the territory, and of erecting temporary buildings for curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land.* *Blackfoot nation agrees that certain territory assigned them by treaty of Fort Laramie shall be a common hunting ground.*
Nez Perce	Treaty with the Nez Perce	1863	*agree to reserve all springs or fountains not adjacent to, or directly connected with, the streams or rivers within the lands hereby relinquished, and to keep back from settlement or entry so much of the surrounding land as may be necessary to prevent the said springs or fountains being enclosed; and, further, to preserve a perpetual right of way to and from the same, as watering places, for the use in common of both whites and Indians.* *… all the provisions of said treaty which are not abrogated or specifically changed by any article herein contained, shall remain the same to all intents and purposes as formerly, --- the same obligations resting upon the United States, the same privileges continued to the Indians outside of the reservation,*
Northern Shoshone (Eastern and Western Bands) and Bannack	Treaty with the Shoshone (Eastern Band) and Bannack Tribes of Indians, Fort Bridger Treaty	1868	*The Indians herein named agree, when the agency house and other buildings shall be constructed on their reservations named, they will make said reservations their permanent home, and they will make no permanent settlement elsewhere; but they shall have the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the borders of the hunting districts.*
Cayuse, Umatilla and Walla Walla Tribes	Cayuse, Umatilla, Walla Walla Treaty	1855	*Provided, also, That the exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians, and at all other usual and accustomed stations in common with citizens of the United States, and of erecting suitable buildings for curing the same; the privilege of hunting, gathering roots and berries and pasturing their stock on unclaimed lands in common with citizens, is also secured to them.*

*Tribe names displayed as spelled in the treaty

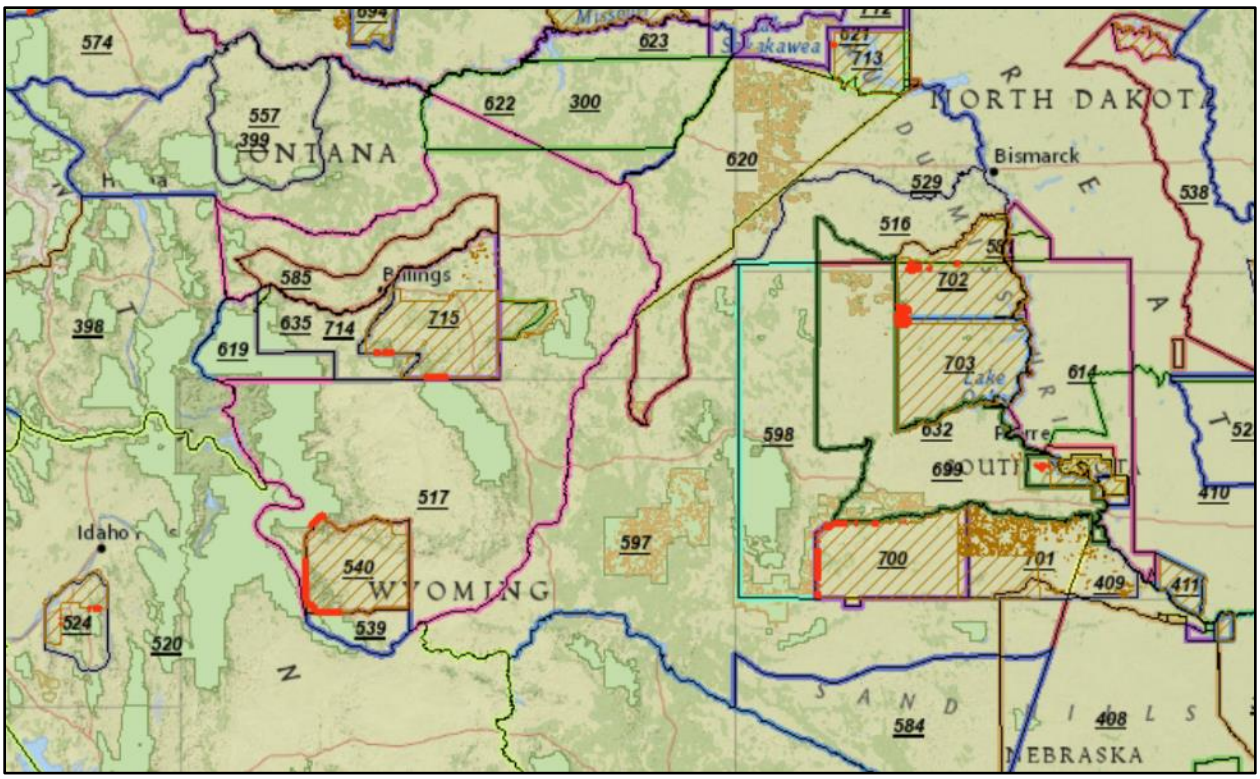

Figure 2. Land cessions relative to national forest boundary (source: Office of Tribal Relations Web site)

Key

Cession Number	Date	Tribe Name at Treaty Signing	Reservation Established	Earlier cessions
300	9/17/1851*	Arapaho; Arikara; Assiniboin; Cheyenne; Crow; Gros Ventre; Mandan; Sioux		
398	9/17/1851	Open Hunting Grounds		
399	9/17/1851; 10/17/1855	Nez Perce, Blackfoot and Flathead Nations		
516	4/29/1868	Sioux		
517	9/17/1851; 5/7/1868	Crow		
520	7/3/1868	Bannock, Shoshoni		
524	6/14/1867; 7/3/1868; 7/30/1869; 9/1/1888; 2/23/1889	Bannock	Fort Hall Reservation	520
529	9/17/1851; 4/12/1870	Arikara; Gros Ventre; Mandan		
540	7/3/1868; 9/26/1872; 5/21/1887	Shoshoni	Wind River Reservation	517
557	8/16/1873; 1/31/1874; 3/25/1875	Crow		399
574	10/17/1855; 7/5/1873; 8/19/1874	Blackfoot; Gros Ventre; Piegan; River Crow		
585	10/20/1875, 3/8/1876	Crow		517
597	4/29/1868; 9/26/1876	Arapaho; Sioux		

Cession Number	Date	Tribe Name at Treaty Signing	Reservation Established	Earlier cessions
598	9/26/1876	Arapaho; Sioux		
599	9/26/1876	Arapaho; Sioux		516, 699
619	9/17/1851; 5/7/1868; 6/12/1880; 4/11/1882	Crow		
620	9/17/1851; 4/12/1870; 7/13/1880	Arikara; Gros Ventre; Mandan		
622	4/13/1875; 7/13/1880	Blackfoot; Gros Ventre; Piegan; River Crow		300
623	4/13/1875; 7/13/1880	Blackfoot; Gros Ventre; Piegan; River Crow		300
635	9/17/1851; 5/7/1868; 7/10/1882	Crow		714, 715
658a	11/26/1884	Cheyenne (Northern)	Executive Order establishing Northern Cheyenne Reservation	517
699	3/2/1889	Sioux		
714	3/3/1891	Crow		635
715	3/3/1891	Crow	Crow Reservation Boundary	635

Not all the Nez Perce bands participated in the 1863 Nez Perce Treaty due to a basic mistrust of the U.S. government and because they did not receive any benefits from the 1855 treaty (Haines 1955). Consequently, bands of Nez Perce residing in the Wallowas were ordered to relocate in 1877 to the reservation delineated in the 1863 treaty. In the process of moving to the new reservation, several members attacked and killed settlers in the White Bird country spurring a military action known as the Nez Perce War. The bands under the leadership of Looking Glass, White Bird and Joseph, numbering over 500 people, fled the country toward Canada, under the relentless pursuit of the Army. They made their last stand in the Bear Paw Mountains, a short distance from the Canadian border. The remaining 375 Nez Perce were captured and sent to Indian Territory in Oklahoma. Later those aligned with Joseph were sent to the Umatilla reservation and the rest were allowed to return to the Nez Perce reservation (Ruby and Brown 1986). The trail they followed is now known as the Nez Perce Trail.

Like the Northern Cheyenne, the Northern Arapahoe homeland was not recognized in the 1868 Fort Laramie treaty. Culturally, they are Plains Indians, but socially and historically distinct. After signing the Treaty of 1851, the Arapaho and Cheyenne then shared land encompassing one-sixth of Wyoming, one-quarter of Colorado and parts of western Kansas and Nebraska. Later, when the Treaty of 1868 left the Northern Arapaho without a land base, they were placed with the Shoshone in west central Wyoming, on the Wind River Reservation.

Among the items reserved by tribes in exchange for land, are the right to hunt and fish in a manner that would allow them to maintain their way of life on open and unclaimed lands (Johnson 1990). “Open and unclaimed lands” may include public lands outside of the tribe’s ceded territory. National Forest System lands and lands managed by the Bureau of Land Management (BLM) are generally held to be “open and unclaimed.” Generally, the test in determining whether a tribe has an official reservation right to exercise treaty rights on open and unclaimed land is whether the tribe can show historic use of that area (see *State vs. Buchanan*).

At first glance it might appear that after the establishment of reservations in the late 1800s and early 1900s tribal territories would become fixed, but that is not the case. While tribal boundaries did become set in a legalistic sense this does not mean that the Indians perceived that lands outside the reservation boundaries were no longer important or significant. The Indian Claim's Commission was established by Congress in 1946 to settle land claim disputes between Indians and the U.S. Government. Together with the law, the Commission created a process for tribes to address their grievances against the United States, and offered monetary compensation for territory lost as a result of broken Federal treaties. However, by accepting the Government's monetary offer, the aggrieved tribe abdicated any right to raise their claim again in the future. This limitation on the authority of the Indian Claim's Commission was resented by many tribal peoples, who wanted the return of their lands more than money—the Teton and Lakota are still trying to regain their traditional lands of the Black Hills, South Dakota. The South Dakota units of the Sioux District are considered by some Lakota to be part of the Black Hills.

The legislation was intended as a means to resolve many longstanding claims and it took until the late 1970s to complete most of them, and the last was not finished until the early 21st century. According to the Indian Claim's Commission maps, the Custer Gallatin National Forest falls within three claims – the Sioux (Dahcotah); the Arikara, Mandan, Hidatsa Nation; and the Crow. The Hebgen Lake and Bozeman Districts of the Custer Gallatin fall within the original "open hunting grounds," or unceded lands, identified in the 1851 Fort Laramie Treaty and no Indian Claim's Commission claims have been made on these areas.

Areas of Known Tribal Importance

Land use decisions made by forest plan revision have the potential to affect traditional cultural resources and landscapes, sacred sites and places, and locations of traditional use. Lands currently administered by the Custer Gallatin National Forest contain many areas and landmarks that are part of complex mythologies and sacred landscapes developed within the homelands of the tribal groups which occupied the lands prior to European arrival. Sacred and culturally important places fall under the purview of the National Historic Preservation Act, American Indian Religious Freedom Act, Archaeological Resources Protection Act, and the Sacred Lands Executive Order (Executive Order 13007). Native American graves are protected under the Native American Graves Protection and Repatriation Act.

At least 15 tribes recognize the lands administered by the Custer Gallatin National Forest as part of their aboriginal or traditional use areas, and they still use these lands and resources for traditional, cultural and ceremonial activities. Areas of known current use include the North Cave Hills, Slim Buttes, Long Pines, Chalk Buttes, Tongue River Breaks, Dryhead Overlook and the Pryors, and the Crazy Mountains.

With over 100 years of forced removal, some physical connections between the tribes and the national forest have been lost, yet many still remain in stories and traditions tied to the landscape. Many of the traditional relationships began to be undermined by the Federal Government—coincident with the sequestering of Plains and Plateau Indians on reservations in the late 19th century was the forced cession of native hunting and foraging, decimation of the bison herds, open travel, and religious or other cultural endeavors in and around now Federal lands. In the Government's view the Indians were being "protected" against extermination from Indian-white warfare by means of official assimilation policy and the creation of Indian reservations to which they were forcibly relocated. Tribal people were not allowed to legally use the resources outside of the reservation boundaries for more than a century. This break between Indians and their traditional environments led to a diminished body of oral traditions

conveying mythical or historical information, place names and other geographic knowledge as well as personal memories regarding the Custer Gallatin National Forest.

Many tribes are now "reconnecting" to locations and sacred places known only through oral histories and stories. The studies of the North Cave Hills and Chalk Buttes that brought together elders from a number of the neighboring tribes began a reconstruction and reconnection of past use to these places.

Traditional Cultural Properties

Section 101(d)(6)(A) of the National Historic Preservation Act, as amended clarifies that properties of traditional religious and cultural significance to an Indian tribe or Native Hawaiian organization may be eligible for the National Register of Historic Places. Many of the tribes may have traditional cultural properties on the Custer Gallatin National Forest, but are reluctant to share these locations for fear that disclosure of locational data may become public knowledge and non-tribal people would intrude and or desecrate sacred areas, or collect and even sell plants, minerals, clay or other resources of profound importance to the tribes.

Currently only a few traditional cultural properties have been identified including Ludlow Cave in the North Cave Hills and Dryhead Overlook in the Pryor Mountains. Both locations are well known to the general public as they were on Forest Service maps for many years, yet despite nontribal intrusion and damage, they continue to be used for traditional purposes.

Traditional Cultural Landscapes

Several ethnographic studies and consultations with tribes have identified the following six locations in Table 3 as potential traditional cultural landscapes. Several of these traditional landscapes are detailed in the Historical and Cultural Resources Assessment Report.

Table 3. Traditional cultural landscapes by landscape area

Landscape Area	Traditional Cultural Landscape
Sioux District	North Cave Hills, Chalk Buttes, Slim Buttes
Ashland District	Tongue River Breaks
Pryor Mountains	Entire Pryor Mountains
Bridger, Bangtail and Crazy Mountains	Entire Crazy Mountains

The significance of the Pryor Mountain unit to the Crow cannot be overemphasized. It is used on a regular basis for fasting, plant collection (medicinal), subsistence (teepee poles, fuel) and ceremonial (center pole for the Sundance). Pryor Gap, just outside of Custer Gallatin National Forest lands, is significant not only in Crow history as a major travel route, but also having great spiritual significance since it is and was the home of the Little People. Other areas of the Pryors such as Dryhead overlook are associated with fasting sites of individuals important to crow history such as Plenty Coups (Deaver and Kooistra-Manning 1995).

The area immediately east of the Tongue River is extremely important to the Northern Cheyenne (Tallbull and Deaver 1991) because it is the location of 46 early Northern Cheyenne homesteads which predate the creation of the reservation. While the actual homesteads are not located within the Custer Gallatin National Forest boundary, related activities and sites may include locations on the national forest. These homesteads contain burials, sweat lodges and other spiritually important features as well

as remains of the homes. Protection of burials of known significant people in the Breaks is extremely important to the Northern Cheyenne.

Landforms and locales bearing names which relate to Indians and their traditions may indicate areas traditionally used by the tribal groups. There may also be a greater possibility of encountering sensitive sites around these locations. Lists compiled by Deaver and Kooistra Manning for the Sioux, Ashland and Beartooth districts contained over 120 place names that may be associated with traditional practices in the past and possibly the present. A preliminary list compiled for the former Gallatin National Forest suggests at least 60 locations. Review of the Apsaalooke (Crow) place names database from the Little Bighorn College Web site found over 140 locations within the planning area. Consultation with the tribes with affiliation to the Custer Gallatin National Forest may confirm some of these locations and add to the list.

Sacred Sites

Sacred sites important to federally recognized tribes are managed under Executive Order 13007, which defines Indian sacred sites as "any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site." There is no review of such determinations by a Federal agency. The executive order requires Federal land managing agencies to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of such sacred sites. It also requires agencies to develop procedures for reasonable notification of proposed actions or land management policies that may restrict access to or ceremonial use of, or adversely affect, sacred sites.

In 2012 the Secretary of Agriculture directed the Forest Service and the Department of Agriculture's Office of Tribal Relations to review and evaluate existing laws, regulations and policies in terms of how well they provide a consistent level of protection for sacred tribal sites located on National Forest System lands. The "Report to the Secretary of Agriculture USDA Policy Review and Recommendations, Indian Sacred Sites " resulted from that review and the Secretary accepted the recommendations, which the Forest Service is now implementing.

In consultations with the Lakota and the Three Affiliated Tribes, and through ethnographic and ethnohistorical research, the Forest Service has learned that the Cave Hills, or more specifically the North Cave Hills, are considered sacred places. The central points of interest in these units are the rock art, which is used by the Sioux and other Indian tribes as an oracle, and Ludlow Cave.

The Standing Rock Sioux Tribe, Lower Brule Sioux, the Cheyenne River Sioux Tribe, and the Rosebud Sioux Tribe issued formal tribal resolutions identifying sacred lands within the South Dakota units of the Sioux District, including the North Cave Hills, South Cave Hills and Slim Buttes under the Executive Order 13007**,** Indian Sacred Sites. The Forest Service has engaged in government-to-government consultation with these tribes and identified their concerns about potential effects of oil and gas leasing on sacred sites and their use of the sites. Information obtained during that consultation figured prominently in the Record of Decision for the Sioux Oil and Gas Leasing project.

Culturally Sensitive Sites

Cultural resources associated with traditional Indian ceremonies, cultural practices, and important events in tribal history are classified as culturally sensitive sites (Deaver and Kooistra-Manning 1995).

These are the site types which have the highest probability of being the subject of traditional cultural concerns. Sensitive site types include burials, rock art, stone rings of greater that 7 meters in diameter, monumental rock features, fasting structures, eagle catching pits, sweat lodges, wooden structures, Sun Dance lodges and grounds, offering and prayer locales, and historic battle sites. Within the planning area there are over a thousand sites that may fall into this classification.

Table 4 summarizes very initial connections and associations the tribes may have with the planning area by landscape area. Additional concerns are included regarding the respectful treatment of burials and traditional cultural properties and the use of Custer National Forest lands as expressed by all the Indian consultants involved in the Deaver and Kooistra-Manning study (1995).

More connections and associations will be discerned through continued consultation and collaboration with the tribes throughout the forest plan revision process.

Table 4. General known tribal associations and concerns by landscape area

Landscape Area	Tribe	Associations/Concerns
Madison, Henrys Lake, Gallatin, Absaroka and Beartooth Mountains.	Nez Perce Shoshoni-Bannock Crow Eastern Shoshone	Nez Perce National Historic Trail; Bannock Trail; Hunting, Gathering, Fasting; Maintain and increase access for mineral resource gathering, such as soapstone and paint pigment; Respectful treatment of TCPs especially Sun Dance Grounds, fasting sites, rock art sites and medicine wheels; Respectful treatment of hunting, fishing and root gathering sites;
Bridger, Bangtail, Crazy Mountains	Blackfeet Confederated Salish Kootenai, Crow	Flathead Pass; Crazy Mountain Traditional Cultural Landscape; Crazy Mountains - motorized travel above timber line or alpine areas
Pryors Mountains	Crow Shoshone Northern Cheyenne	Traditional Cultural Landscape; Hunting and Gathering; Plants; Motorized travel at Dryhead Overlook; Maintain access for plant collecting (including tipi poles) particularly in the Pryor Mountains and especially the Pryor foothills
Ashland District	Northern Cheyenne Crow	Traditional Cultural Landscape; Maintain Access to mineral (paint Pigment) gathering; Maintain Access to plant gathering areas; Respectful treatment of traditional cultural properties, especially Cheyenne Homesteads, fasting areas, and rock art sites
Sioux District	Northern Cheyenne Teton Sioux MHA Nation Crow Assiniboine	North Cave Hills Traditional Cultural Property; Slim Buttes; Chalk Buttes; Fasting sites; Eagle Trapping pits; Respectful treatment of TCPs, especially rock art sites

Natural Resources

Due in part to a "holistic" world view held by traditional groups, physiographic landscapes and the natural and cultural resources that they contain are inseparable from American Indian culture, traditions, religions, and belief systems. For example, in Crow cosmology all things are related with

people, land, water, plants and animals as well as rocks, minerals and fossils, all having a spiritual connection to each other. Tribal members depend on an array of forest products for number of traditional uses and most of the tribes affiliated with the Custer Gallatin National Forest have treaty rights to hunt and gather these resources within the planning area. For a tribe to exercise treaty-reserved rights, the resources they rely on must exist in healthy and sustainable populations on the national forest.

The 2008 Farm Bill, subtitle B authorizes the reburial of Indian tribal human remains and cultural items found on national forest lands, temporary closure of national forest lands for cultural purposes, a confidentiality provision, and authority to provide to Indian tribes, free of charge, forest products for traditional cultural purposes.

Animals

Tribal elders who participated in the Chalk Buttes Traditional Landscape Study submitted a table listing the 12 mammals and birds that are used in traditional practices. Included on the list are bear, bison, antelope, deer, eagles, Prairie Falcons, and red-tailed hawks. Salamanders, fish, turtles, and frogs are noted as important to the Northern Cheyenne in the Tongue River Breaks (Boggs et al. 2010).

Bison hold a sacred significance to all the tribes in the planning area and were and are the principal means of subsistence and spirituality. Despite its near extinction the bison continue to play an important role in tribal traditional beliefs and practices. Reconnection with the traditional hunting of bison that are now exiting Yellowstone National Park by Tribes exercising their treaty rights has been occurring on the Gardiner District.

Lakota, Cheyenne, Arapaho, Crow Hidatsa, Mandan, and Arikara Tribes share the belief that bison and other animals first populated the earth at places like Ludlow Cave. Today some Indian people maintain a belief that one day the bison spirits will emerge from underground world to which they retreated (Sundstrom 2002).

Botanical Resources

Traditional plant materials are widely gathered and used by tribal members across the planning area for traditional ceremonial, medicinal, industrial, and subsistence uses, with each plant having special rules and cultural traditions governing its procurement and use. Plant lists of significant plants collected have been submitted to the Custer Gallatin National Forest from the Crow, Northern Cheyenne, Sioux, and Shoshone Bannock, many of which are integral in traditional ceremonies and practices. A few of these many plants listed include camas, bitterroot, box elder trees, juniper, white sage, purple coneflower, golden aster, sumac, prairie turnip, yucca, buffalo berry, rose hips, green ash, wild licorice, prairie June grass, chokecherry, golden current and horsemint.

Commissary Ridge in the Pryors has been identified as an important plant gathering location for the Crow. West Rosebud has been a plant collection location since precontact times. The foothills of the Pryors are known to the Northern Cheyenne as an important plant gathering area—the plants in this area are reported to be particularly hardy, producing stronger medicine. Plant collection areas are also located within the Chalk Buttes.

Teepee poles and sundance poles and pines are extremely important forest products to the tribes and collection is currently administered by the Crow Tribe under a permit system in recognition of their right to gather these materials under the Fort Laramie Treaty. As more and more demand for these cultural materials increases, the Custer Gallatin National Forest will be tasked to find additional locations for

tribal use. Forest Service practices or management decisions that may diminish the quantity or quality or access to these resources affect their availability for tribal use.

Trails

Several trails across the planning area hold special significance to the tribes given its association with their rich history. The Nez Perce National Historic Trail, which traces the 1877 flight of the Nez Perce from their traditional lands, holds historical and cultural significance for the Nez Perce and other tribes.

The Bannock Indian Trail is essentially a network of trails linking the camas meadows with the Three Forks Valley (Madison River), Gallatin Valley (Gallatin River), Yellowstone Valley (Yellowstone, Gardner River, Stillwater), and Clark Fork Valley (Clark Fork River). A number of tribes, including the Bannock and Fort Hall Shoshone, Nez Perce, Flathead, Lemhi and Wyoming Shoshone used this trail as access to the buffalo hunting grounds on the Plains and is culturally significant.

Minerals

A number of minerals such as steatite, obsidian, soapstone/pipestone and clays are collected on the Custer Gallatin National Forest along with clays for paint. Certain fossils such as baculites, belemites and ammonites continue to be recognized by the Crow, Arapaho, Hidatsa, Northern Cheyenne and others as having spiritual power and are collected on the national forest.

Key Benefits to People

The Custer Gallatin National Forest is within the aboriginal territories of a number of present day tribes, including the Great Sioux Nation, the Three Affiliated Tribes, Fort Peck Tribes, Northern Cheyenne, the Crow, The Arikara, the Shoshoni, the Arapahoe, the Shoshone Bannock, the Nez Perce, the Confederated Salish Kootenai and the Nez Perce band of the Umatilla. Many of the tribes retain reserved treaty rights within the planning area to use these lands for traditional purposes. Activities such as the right to hunt and gather on unoccupied lands outside of the present day reservation boundaries are examples of these reserved rights, including the collection of traditionally used plant materials such as teepee poles and medicines, and, as in bison hunting outside of Yellowstone National Park, certain hunting rights. The Forest Service is charged with implementing programs and activities honoring Indian treaty rights and fulfilling legally mandated trust responsibilities to the extent that they are determined applicable to National Forest System lands (Forest Service Manual 1563).

Trends and Drivers

One of the most important recent piece of legislation providing for Native American access to National Forest System lands and forest products, as well as related authorities, is the Farm Bill 2008, Forest Title VIII, Subtitle B (Section 8101-81017). The bill specifically addresses reburial of human remains and cultural items on National Forest System lands; temporary closure for traditional cultural purposes; providing forest products free of charge for traditional and cultural purposes; prohibition on disclosure of information pertaining to reburials, sites or resources of traditional and cultural importance; and protection of all outstanding rights to use National Forest System land or other public land. This legislation along with the Forest Service direction for implementation of the Sacred Lands Executive Order 13007, shows a growing trend to address more fully Native American traditional use and concerns on Forest Service-administered lands.

A number of land management practices and decisions have the potential to affect traditional cultural practices on the Custer Gallatin National Forest and are of concern to the traditional communities. Resource conditions and trends that affect areas of tribal importance on the Custer Gallatin can be

social, economic and environmental. As a multiple-use agency, the Forest Service permits a wide variety of activities on National Forest System lands that may conflict with traditional cultural practices and use by tribal people.

Land Acquisition/Land Disposal

Changing land ownership patterns through land exchanges and other mechanisms have the potential to affect traditional cultural practices primarily by changing who have the responsibility for National Historic Preservation Act compliance, including the respectful treatments of traditional cultural properties and by changing access patterns. The American Indian Religious Freedom Act explicitly states that Federal land managing agencies must consider the impacts of their actions on access to sacred sites. Land acquisition in and around traditional cultural sites and landscapes can improve and facilitate access and use.

Limiting and Increasing Access to National Forest Lands

Restricting access to public lands can have both beneficial and adverse effects on traditional cultural activities. Restricting access may be beneficial when it preserves the solitude and quiet necessary for fasting, prayer and other ceremonies. It may have a negative effect when it restricts traditional practitioners' ability to collect traditionally important plant, animal, mineral and fossil resources.

Mineral Development

Activities such as mineral, oil, and gas exploration and development, construction of transmission lines, railroad spurs, and utility corridors have affected and continue to affect areas of tribal importance. One of the more recent controversies centered on the proposed construction of the Tongue River Railroad corridor proposed to transport coal from the Otter Creek Tracts adjacent to the Ashland District. Introduction of visual, atmospheric, or audible elements from oil and gas wells can diminish the integrity of traditional use sites and landscapes.

Other energy development and technology developments not necessarily linked to mineral development also can affect traditional cultural uses. Alternative energy development forms such as wind power can result in a large footprint on the landscape and often impact viewsheds which can be so integral to fasting and vision quest activities. Telecommunication towers are often located on high points such as mountain tops and if 200 feet in height are required by the Federal Aviation Administration to be lit at night, causing visual intrusions to the traditional cultural landscapes and possibly displacing traditional cultural practices.

Grazing

Changing the number of animals to graze on national forest lands has the potential to affect the biodiversity of range land and affect the distribution of traditionally significant plant species. Also, a common activity associated with range management is the development of springs on national forest lands. For some tribes like the Northern Cheyenne, springs are associated with spirit life and development may cause the spirit to move away, no longer being available to those who visit the spring for traditional cultural purposes (Deaver and Kooistra-Manning 1995).

Fire Management

Fire control measures such as emergency road blading and dozer constructed fire lines can destroy culturally sensitive properties. Prescribed burning, however, may increase the propagation of certain tree and grass species that have traditional use.

Noxious Weed Control

Not all plants currently classified as weeds by the Forest Service are considered so by the tribes. The Northern Cheyenne collect gumweed (*Grindelia squarrosa*) to use for medicine. Concern has been voiced about spraying weeds near traditional plant collecting areas such as Commissary Ridge by the Crow.

Special Use Permits

Until the 2008 Farm Bill, special use permits were required for traditional cultural practices which was considered offensive by many Tribes. Under the Farm Bill the Secretary of Agriculture may provide free of charge to Indian Tribes any trees, or forest products from Forest Service Lands for traditional and cultural practices. Concern remains that this right is not interpreted uniformly across the Forests.

Expanding Recreation Use

Recreation use on the Custer Gallatin National Forest has seen a marked rise for the last 40 to 50 years. Dispersed recreation may impact areas that are of cultural ceremonial significance to tribes that use the national forest. Designated road and trail systems are designed to avoid cultural sites, traditional use areas and sacred sites, but violations of the rule have caused damage to cultural sites and sacred places.

Vandalism and Theft

Destruction or degradation, removal of materials or use of resources from sites and areas of traditional importance by the Tribes can diminish the ability of tribes to use these areas for traditional practices. Open access to sites such as Dryhead overlook has led to vandalism and exploitation.

Climate Change

To the tribes, climate change is a reality (ACCCNRS 2014). They experience it every day in countless ways because of their economic and cultural dependence on place and natural resources. For the tribes, the impact of climate change extend beyond the physical environment to their responsibilities as government and cultural continuity. Their traditional knowledge of the landscape is gained through intimate intergenerational understandings of interconnections between people and the environment learned through thousands of years of living with the land, learning how to prepare and adapt to change in order to survive. The consequences of climate change have the potential to result in a disproportionate effect upon Indian tribes, particularly with respect to the maintenance of their traditional cultural life ways and religious and ceremonial practices. Working with the tribes is paramount to understanding and addressing climate change in the forest plan revision.

Information Needs

Information needs for forest plan revision include:

- Identification of traditional use areas and landscapes within the planning area.
- Consultation with tribes to verify sacred sites and places, and other areas of concern
- Expand the Ethnogeographic Gazetteer to include place name affiliation and appropriate tribal name within the planning area

Key Findings

The Custer Gallatin National Forest administered lands are of immense traditional cultural importance, enhancing quality of life; supporting scenic, historic and culturally important landscapes; sustaining

traditional cultural uses and lifeways; and providing places to engage in traditional cultural practices. To date, six traditional cultural landscapes, the North Cave Hills, Chalk Buttes, Slim Buttes, Tongue River Breaks, Pryor Mountains and the Crazy Mountains, have been identified. The North Cave Hills have been formally identified as a sacred site through tribal resolutions.

The Custer Gallatin National Forest falls within the boundaries defined by the Fort Laramie Treaties and is charged with honoring their trust responsibilities and protecting reserved treat rights for a number of tribes. These tribes include the Crow; Northern Cheyenne; the Fort Peck Assiniboine and Sioux Tribes; the Eastern Shoshone; the Northern Arapaho; the Shoshone-Bannock; the MHA Nation (Mandan, Hidatsa and Arikara); the Rosebud Sioux, the Cheyenne River Sioux, the Lower Brule, the Standing Rock Sioux of the Great Sioux Nation; the Confederated Salish and Kootenai Tribe and the Nez Perce Tribe.

Numerous laws, policy, direction and regulation applicable to the management of tribal relations and issues came into being after the 1986 and 1987 Gallatin and Custer forest plans. While the Custer Gallatin National Forest follows new direction as it is developed, the revised forest plan can reflect this new direction.

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